



**HARBOUR EAST- MARINE DRIVE COMMUNITY COUNCIL
MINUTES
February 6, 2020**

PRESENT: Councillor Tony Mancini, Vice Chair
Councillor David Hendsbee
Councillor Sam Austin

REGRETS: Councillor Lorelei Nicoll, Chair
Councillor Bill Karsten

STAFF: Claire Gillivan, Solicitor
Simon Ross-Siegel, Legislative Assistant

The following does not represent a verbatim record of the proceedings of this meeting.

The agenda, reports, supporting documents, and information items circulated are online at halifax.ca.

The meeting was called to order at 6:00 p.m. and Community Council adjourned at 7:27 p.m.

1. CALL TO ORDER

Councillor Mancini, Vice Chair called the meeting to order at 6:00 p.m. in the Harbour East-Marine Drive Community Council Meeting Space, Main Floor 60 Alderney Drive, Dartmouth.

2. APPROVAL OF MINUTES – January 9, 2020

MOVED by Councillor Austin, seconded by Councillor Hendsbee

THAT the minutes of January 9, 2020 be approved as circulated.

MOTION PUT AND PASSED.

3. APPROVAL OF THE ORDER OF BUSINESS AND APPROVAL OF ADDITIONS AND DELETIONS

MOVED by Councillor Hendsbee, seconded by Councillor Austin

THAT the agenda be approved as circulated.

MOTION PUT AND PASSED.

4. BUSINESS ARISING OUT OF THE MINUTES – NONE

5. CALL FOR DECLARATION OF CONFLICT OF INTERESTS – NONE

6. MOTIONS OF RECONSIDERATION – NONE

7. MOTIONS OF RESCISSION – NONE

8. CONSIDERATION OF DEFERRED BUSINESS – NONE

9. NOTICES OF TABLED MATTERS – NONE

10. HEARINGS

10.1 PUBLIC HEARINGS – 6:00 P.M.

10.1.1 Case 21296: Development Agreement for King’s Wharf, Dartmouth

The following was before the Community Council:

- A staff recommendation report dated December 20, 2019
- Correspondence from Karen and Mike Lightstone, Patricia McKay, Sharon M.H. MacDonald, Gavin Perryman and Joan Cowderoy, Keith and Pat Thomas, Elizabeth Ann MacDonald, Honey Halpern, Karen Lightstone, Janet McCarthy, Grant Lavonne, and Donald Gordon
- Staff presentation
- Applicant presentation

Carl Purvis, Planning Applications Manager, presented the application of Fares & Co. Development Inc. to enter a new Stage I Development Agreement to allow a mixed-use development containing up to 1,500 residential units, commercial space, hotel, marina, parks and open space, and new streets on the lands commonly known as King’s Wharf, Dartmouth.

Staff responded to questions of clarification raised by members of the Community Council regarding the definition of non-substantive changes under the proposed development agreement. Under the current proposal, road alignment changes would constitute a substantive change whereas changes to the built-form and massing may or may not depending on the particular change. Staff confirmed that the development proposal is consistent with current standards under the Regional Plan for construction over 3.8 meters above sea level. Regarding secondary access requirements, staff stated that construction would begin almost immediately for this part of the project as other construction is contingent to it.

The Chair opened the public hearing and invited the Applicant to come forward and address Community Council.

Sean Day, a Planner for the Applicant, Fares & Co. Development Inc. spoke to the application. They noted that with changes to the Centre Plan, the development has benefited from a full design review which addresses various challenges important to residents. The proposed development spreads blocks and massing allowing for neighbourhood evolution, variable built form and less wind tunnel effects. A grade separated ramp over rail crossing allows for emergency vehicles to access the property while also supporting active transportation measures and a minimum possible impact to the surrounding community. Varying façade height allows better sun penetration into the subject site. Low perimeter buildings preserve views of the harbour. The lowest construction height in the proposed development is 4.5 meters above sea level, which as staff mentioned is significantly greater than is required under the Regional Plan. Sean Day concluded with remarks regarding what, in the Applicant's perspective, the current proposal does not do. The Applicant is not seeking more density than already approved, is not threatening heritage properties, and is not ignoring or taking lightly challenges and competing aspirations for the site. In response to questions from Community Council regarding sea level rise, Sean Day stated that the townhouses are the lowest graded portion of the proposed development at 4.5 meters above sea level. Staff noted that there will also be underground parking, however this is incorporated in a manner consistent with the Regional Plan and well above sea level. The highest point of the development is about 8.5 meters above sea level allowing for a 4-meter grade across the subject site.

The Chair reviewed the rules of procedure for public hearings and called for anyone wishing to speak on the matter.

Keith Thomas, Dartmouth, spoke in favour of the proposed development with certain comments and cautions. Since the project was approved a decade ago only twenty percent of the property has been completed. The speaker believed that this related to something which had gone fundamentally wrong, for which the current proposal will assist in correcting. There are some good benefits to allowing the application to proceed and no one benefits from the current status. The speaker stated that they believe that the second access point is a great benefit. The speaker requested Community Council to direct staff to remove clause 6.1.1 (b) from the development agreement which would allow amendments which would otherwise be considered substantive from requiring a further public hearing. The speaker expressed that they believed this was unusual to development agreements and would create a backdoor for changes without public scrutiny. The speaker urged Community Council to strike this clause from the draft agreement.

Sharon Robinson, King's Wharf, spoke in favour of the proposed development while expressing concerns regarding the second access. The speaker supported a plan consistent with the original plan promising two vehicle-permitted access points into the development to accommodate the large number of units anticipated to be built. The speaker stated that the current proposal has not alleviated their concern if there is only one means of exiting by way of vehicles.

Alex Handyside, King's Wharf, spoke in favour of the proposed development while expressing concerns regarding the second access. The speaker stated that they were an early "first day" resident of King's Wharf and have witnessed construction onward. The speaker stated they were happy with the new changes and eager to see the site develop further. The speaker stated that the one exception to this support regards the second access. Two years ago, the plan called for a full vehicle-accessible second access, and many residents purchased units in anticipation of this amenity. By the end of construction for the third building, this plan had changed when the Applicant came to understand that the second access was only needed to accommodate emergency vehicles. The speaker believes that the current access route, while positioned in an improved location, is not sufficient. The speaker requested that Community Council deny the current application and insist staff require the Applicant to provide design for a full second access point.

Annemarie Johnson, Westphal, spoke in favour of the proposed development. As an outsider to King's Wharf, the speaker stated that they are excited to see growth and new visitors being attracted to the Dartmouth core. Several residents see King's Wharf as the jewel of Dartmouth in attracting new residents and visitors. Attractions include walking, economic growth and health in the community.

Don Gordon, Dartmouth, spoke in favour of the proposed development while expressing concerns regarding the proposed construction height above sea level. The speaker stated that they came to ensure that the sea level rise issue is covered and were delighted to see that staff and the Applicant appear to have taken this issue into serious consideration. However, sea level rise should not deal only with mean sea level rise but also the possible tidal range of several meters. If storm surges come at high tide, these could mean several meters of spill. Current breakwater is breached by waves, and this will only become more frequent causing damage at some time over the lifespan of these buildings. The speaker stated that it should be recognized that developing to build on the coast on fill is always a high risk. The speaker hoped that staff and the developer understand this risk and do not set themselves up for future bailouts from government.

Karen Lightstone, King's Wharf, expressed concern regarding the height of the proposed development. The speaker requested clarification regarding a possible discrepancy regarding the "Brightwork" building which appeared to be a 12-storey building according to some of the Applicant's submissions and materials while "Building E" appears to be a larger possibly 23 story building in other materials. The speaker raised concerns regarding wind tunnels and stated that a wind study ranks wind between three current buildings as considered "uncomfortable" as of this time, which is the highest rating. The speaker expressed concern that at the current proposed height, "Building E" would likewise lead to a wind tunnel effect and uncomfortable wind conditions.

Craig King, King's Wharf, spoke in favour of the proposed development. The speaker stated that they have unqualified support for the plan. While they understand some residents have traffic concerns, the speaker had every confidence based on studies which have been done that traffic issues will be appropriately addressed with the current proposed access point plan. The speaker has every hope that as transit improves, active transit will mean lower concerns about traffic and a reduced demand on access points for vehicles.

Paul Boudreau, Victoria Road spoke in favour of the proposed development while expressing concern regarding several features. The speaker stated that they were glad that the double helix design for the second access point had been removed but noted that they were concerned about second access. The speaker stated that they dislike concrete and noted that the current plan requires a block of concrete to raise across the area. The speaker stated that they would rather extend the road network with it. The speaker hoped that Community Council would push for public boardwalks which, as with the previous designs, would previously surround the entire development.

Germaine MacDonald, Dartmouth, expressed concern regarding several features of the proposed development. The speaker asked if it was possible that a train could block both access points to the development. Regarding sea level rise, the speaker stated that they understood that in 2019 the province was considering new legislation restricting building height above sea level and asked if staff is certain that the proposal would fall within guidelines in new legislation. The speaker also asked if staff could consider removing containment units in the harbour surrounding the development.

Lindell Findlay, King's Wharf, spoke in favour the proposed development. The speakers stated that of past designs, this was the best design so far. Regarding the second access plan the speaker stated that they understood that this was the fourth variation of an access plan and asked if the developer had ever explored the possibility of using a tunnel. The speaker stated that if parking is underground, it seems feasible to connect directly to the underground parking from the access point and added that this would not infringe on sightlines either.

Daren Garnier, Dartmouth, spoke in favour of the proposed development. The speaker also stated that they wished to dispel a myth regarding tidal range issues. The speaker stated that the highest known tidal

range in Nova Scotia has been 2.8 meters, and this is the historical record height. Given the proposed height of the development at 4.5 meters above sea level, the speaker stated that there seems like enough height to protect the development in the event of extreme surges. The speaker stated that it would not be sensible to adopt a policy where planners shy away from waterside development in all instances, because coastal development is a reality in Nova Scotia. The speaker urged planners to consider the potential of what could happen in the context of what planners and scientists know is likely to happen, cautioned that observers may be considering too much hypothetical risk as opposed to informed risk.

The Chair called three times for any other speakers, there were none.

The Chair invited the Applicant forward to respond to points raised by speakers.

Sean Day, a Planner for the Applicant, Fares & Co. Development Inc. appreciated the feedback received from members of the public, and reiterating points made during their presentation. Regarding concerns about the second access point, Sean Day stated that the Applicant has always sought to build a pedestrian oriented development. In response to questions regarding traffic concerns, Sean Day stated that the current proposal is consistent with traffic studies which have been conducted and the Applicant is confident that the current proposal will provide sufficient access for residents and visitors. King's Wharf was always intended to be a pedestrian oriented development and the Applicant is mindful of current trends indicating a future in which residents will be much less dependent on personal vehicle ownership. The Applicant did explore the possibility of an underground tunnel access route, however this was concluded to not be feasible due to a risk of flooding and the risk of trains blocking access. Regarding concerns about storm surges, Sean Day noted that while it remains important to be cautious parts that would be developed later in projects are closest to waterfront which will give the Applicant further time to better understand risks of storm surges and to protect perimeter buildings from current risk. Sean Day noted that buildings previously constructed in King's Wharf were not the benefactors of comprehensive wind studies, and this was a reason the Applicant sought changes to the current development in order to break the site up to mitigate these issues. The tower and podium built form also helps because sheer winds hit the tops of towers and are redirected by podiums away from pedestrians, and wind is also mitigated by other features. Sean Day also stated that the Applicant will subject the design to wind tunnel studies to fine-tune the built form. Regarding the boardwalk around the site, Sean Day noted that it would be a mix of public and semi-public spaces. The Applicant has preserved a remarkable total amount of public access in the current proposal. It may be hard for a relatively small number of residents to pay for private boardwalk space entirely, so the Applicant has had discussions with the city regarding the proposed maintenance and access. The speaker for the Applicant noted that containment rings are common to see in the Halifax Harbour. Regarding requests for clarification on the building height of the "Brightwood" tower, Sean Day stated that "Building E" is a large podium and tower building bisected by a walkway which would measure 82.5 meters in total, whereas the "Brightwood" building refers to "Building L" which would measure 50 meters in total.

MOVED by Councillor Hendsbee, seconded by Councillor Austin

THAT the public hearing be closed.

MOTION PUT AND PASSED.

MOVED by Councillor Austin, seconded by Councillor Hendsbee

THAT Harbour East Marine Drive Community Council:

Approve, by resolution, the Discharge Agreement, which shall be substantially of the same form as set out in Attachment B of this report

Approve the proposed development agreement, which shall be substantially of the same form as set out in Attachment A with the exception that the reference to 3.18.14 in section 6.1.1(h) should be replaced with 3.18.16; and

Require that both agreements be signed by the property owner within 120 days, or any extension thereof granted by Council on request of the property owner, from the date of final approval by

Council and any other bodies as necessary, including applicable appeal periods, whichever is later; otherwise this approval will be void and obligations arising hereunder shall be at an end.

Members discussed the motion with staff responding to questions regarding the non-substantive changes clause, public art, sea level height and the access route. Staff clarified that while both access points are close to one another the ramp would prevent a passing train from blocking both entrances for emergency vehicles. Staff stated that the most recent information staff currently possesses regarding provincial regulations for coastal construction above sea-level is reflected in the application. If provincial regulations should change, whether the current proposal would be grandfathered in or not would depend on the type of regulatory changes sought by the province. Regarding the non-substantive changes clause, staff clarified that while it was difficult to provide Council with certainty given that this would ultimately be a legal determination, substantial alternations would constitute changes to the proposal not otherwise discouraged from the "Stage 1" development agreement. By way of example, staff stated that further changes regarding the second access would likely constitute a substantive change. Regarding public art, staff expressed that the development agreement requires the Applicant to provide a plan to provide comprehensive public art in the development, meaning an artistic plan which is cohesive across the development.

Councillors noted several reasons for approving the proposed development including:

- Confidence that the proposed second-access point, while potentially frustrating to some residents who had purchased units in the anticipation of receiving a full vehicle accessible second accessway, nevertheless effectively managed existing and future traffic and provided for effective emergency response and active transportation;
- Confidence in the improved design of the proposed development as it relates to built-form, variations in the size and character of buildings and effective wind mitigation;
- Confidence in the proposed development's conforming to sea level heights consistent with standards in the Regional Plan and current Lidar data regarding sea-level rise and storm surges.

MOTION PUT AND PASSED.

Several Councillors expressed skepticism regarding the feasibility of private condominium fee structures for funding private boardwalks in the development and noted that it may be important to review boardwalk funding options and public access at a later date. Several Councillors indicated a desire to explore options to build a link between Ferry Terminal Park and the subject site to ensure neither becomes an isolated island adjacent to the Dartmouth core.

MOVED by Councillor Austin, seconded by Councillor Hendsbee

THAT Harbour East-Marine Drive Community Council request a staff regarding options for the construction of a direct trail connection from Ferry Terminal Park to King's Wharf.

MOTION PUT AND PASSED.

10.2 Variance Hearings – None

11. CORRESPONDENCE, PETITIONS & DELEGATIONS

11.1 Correspondence

The Legislative Assistant noted that correspondence was received for item 10.1.1. This correspondence was circulated to Community Council.

For a detailed list of correspondence received refer to the specific agenda item.

11.2 Petitions – None

11.3 Presentations – None

12. INFORMATION ITEMS BROUGHT FORWARD – NONE

13. REPORTS/DISCUSSION

13.1 STAFF

13.1.1 Amendment to By-law B-201 Respecting the Building Code

The following was before Community Council:

- A staff recommendation report dated January 2, 2020

MOVED by Councillor Austin, seconded by Councillor Hendsbee

THAT Harbour East-Marine Drive Community Council retain the existing wording in By-law B-201, the Building By-law, regarding the regulation of fences.

Several Councillors discussed the policies the current by-law and their applications in rural contexts.

MOTION PUT AND PASSED.

13.1.2 Case 21856: Development Agreement for #8005 Highway 7, Musquodoboit Harbour

The following was before Community Council:

- A staff recommendation report dated January 7, 2020

MOVED by Councillor Hendsbee, seconded by Councillor Austin

THAT Harbour East-Marine Drive Community Council give notice of motion to consider the proposed development agreement, as set out in Attachment A, to permit a mixed-use residential and commercial building containing five (5) dwelling units at #8005 Highway 7, Musquodoboit Harbour and schedule a public hearing.

MOTION PUT AND PASSED.

13.2 MEMBERS OF COMMUNITY COUNCIL – NONE

14. MOTIONS – NONE

15. IN CAMERA (IN PRIVATE)

15.1 Approval of In Camera (In Private Minutes) – January 9, 2020

The following motion was passed in public session:

MOVED by Councillor Hendsbee, seconded by Councillor Austin

THAT the In Camera (In Private) minutes of January 9, 2020 be approved as circulated.

MOTION PUT AND PASSED.

16. ADDED ITEMS – NONE

17. NOTICES OF MOTION – NONE

18. PUBLIC PARTICIPATION

The Chair called three (3) times for any members of the public wishing to address Community Council; there were none.

19. DATE OF NEXT MEETING – March 5, 2020

20. ADJOURNMENT

The meeting was adjourned at 7:27 p.m.

Simon Ross-Siegel
Legislative Assistant